marriage rite to any period, but postpones it with contempt to the law which is evaded, and which afterwards must condone the evasion; with risk to the state which may be burdened by an illegitimate offspring for whom the father escapes responsibility; with offence to society which must tolerate an unlicensed union that may end in the casting off upon it a blemished character; but worst of all, with moral injury to the woman who is kept in an illicit union, and who may be repudiated at the whim of her *de facto* husband.

In Scotland alone of all the world, as far as I have been able to discover, is woman given any title whatsoever to consideration, so that she may enforce a declaration of a marriage which has existed in fact and in repute. That is not one of the least of the honours Scotland can claim.

And I mistake much the movement of the age if women will, as undoubtedly they should not, allow the marriage laws to remain so much as they are protective only of wealth and rank and the male sex. It is in the union of man and woman that they both reach the highest development of all their powers; but the union is immeasurably more to a woman. If she fails in that, she fails in all. If by a deceptive, faithless union she loses her name, she loses her heart. The widow and the deserted wife have times without number shown examples of courage, endurance, energy, and skill in fighting against countless odds the battle of life for herself and her children, such as men have never equalled; but robbed of her good name, deceived where she has trusted, she sinks lower and lower; baser and still baser paths she treads, until ruined in this life, she falls a lost soul into the deeps that lie under.

VI.—*Suggesstions for Remedying Defects in International Marriage as affects Women Married in the United Kingdom to Foreiguers.* By W. Neilson Hancock, LL.D. Q.C.

At a public meeting in the Mansion House, in this city, Miss Ada M. Leigh, the Lady President of the Association of Mission Homes for the protection of Englishwomen and Children, at 17 Avenue Wagram, Paris, called attention to the hardships suffered by Irish, English, and Scotch women who are married to Frenchmen or other foreigners, in cases where all the conditions of the English law of marriage are complied with, but those of foreign law not attended to.

The importance of the question thus raised is indicated by the following figures:—Out of 128 admissions to the Parisian Orphanage of the Association since 1877, "47 have been children of mixed parentage (so far as the managers can judge properly married), 21 illegitimate, and 24 deserted."

Miss Leigh's association has been very successful in their efforts to check the celebrating of marriages legal according to English law, but for want of the proper publicity and consent, illegal according to French law.

A description of what has been done, however, only shows how ripe the question is for legislation and international treaty.

In December, 1879, the Association obtained the opinion of M. Napias,

Advocate of the Court of Appeal at Paris, on the subject. They published this, with a translated copy of the Articles of the French Civil Code, the observance of which is required for the validity of marriages contracted on foreign soil between two French persons, or between a French person and an English person. M. Napias stated in his opinion that it would be advisable that the English Government should send out circulars to the priests and registrars, recommending them to study accurately the legal provisions of the translated articles to the code he annexed to his opinion, and to apply for information and advice to the diplomatic agents, and to the consuls accredited by France in England.

In January, 1880, Miss Leigh wrote a popular leaflet entitled, *The Non-recognition of English Marriage Law in France, or Deserted Englishwomen and Children in Paris.* The grounds on which she rests her case, are impossible to disregard. "In these days of international intercourse, the legal recognition of intermarriages between French and other nationalities is demanded by every principle of honour and religion."

In December, 1880, the advice of M. Napias was carried into effect by the Registrar-General for England issuing instructions to registration officers as to the marriage of a British subject with a foreigner. These instructions had annexed a translation of a memorandum drawn up by M. E. Bourdauchon, Counsel to the Ambassador of France in London, dated 21st August, 1880—

> "Respecting the conditions which are necessary in order to ensure the validity in France of a marriage contracted between a British and a French subject."

The Registrar-General's circular also annexed a letter upon the subject from M. Napoleon Arles, to the Editor of the *Times*, dated 11th August, 1880. On the 22nd January, 1881, the Lord Chancellor of England sent through the Home Secretary, to the Registrar-General, a memorandum as to French marriage law, which his lordship recommended should be circulated *in the United Kingdom.* The Registrar-General forwarded this for the information of the Registrar officers, calling attention to the recommendation therein that British subjects proposing to intermarry with French subjects should obtain the assistance of the nearest French consul. The Registrar-General annexed to this further notice to Registrars, a reference to a Parliamentary paper, 1874, c. 1096, entitled, "Reports from Her Majesty's representatives abroad, showing the earliest age at which marriages can be legally solemnized in each of the states on the continent of Europe," as there was to be found in it some further information respecting the law of marriage in Austria and Hungary, in Switzerland, and in Wurtemburg. On 4th February, 1881, the Registrar-General of Scotland sent the Lord Chancellor's memorandum to the Scotch registrars; and in March, 1881, the Registrar-General of Ireland sent the same memorandum to the Irish registrars. In neither Scotland nor Ireland was the opinion of the Counsel of the French Embassy (M. Bourdauchon), nor the letter of M. Napoleon Arles, nor the reference to the marriage laws of foreign countries, circulated as in England. By all the ways I have described a very large amount of precaution has been taken for the protection of Irish, English, and Scotch women in future.

When the papers that are thus supplied for the information of the friends of a woman sought in marriage by a Frenchman are examined, the imperfection of the state arrangements for the protection of her and the children of the marriage are very striking.

The Lord Chancellor's memorandum *recommends*—

> "To all British subjects proposing to intermarry with French subjects that they should before marrying obtain *the assistance* of the nearest French consul (all French consuls being entitled to act as public notaries, etc.) *to see* that the conditions of the French law have been duly complied with, and to authenticate the evidence of such compliance by a public notarial act."

The Registrar-General's memorandum, however, explains that

> "A certificate of a marriage viséd (or legalized as it is sometimes termed) by a consul will, as the Registrar-General is advised, be *of no effect towards rendering a marriage in this country valid in France* in case the law in France has not been complied with. A consul's visé to a document only certifies to its authenticity as a document or to the authenticity of some signature affixed thereto."

This advice of the Lord Chancellor's and indication of the Registrar-General as to the inadequacy of the course of proceeding recommended, indicates the direction in which the solution of the difficulty is to be found.

A Frenchman about to marry a British subject should be bound to submit to the nearest French consul or French ambassador in London the evidence of his having complied with the French law as to notice and obtaining consent of parents, etc.

But then, for the protection of the British woman and her children, the consul or ambassador's decision as to the evidence being satisfactory ought to be given before the marriage takes place, and ought to be conclusive in all French courts and proceedings as to the validity of the marriage.

If this be thought too strong a power to be given to the ambassador or consul, it can easily be protected by requiring an advertisement in the *Moniteur*, or other prescribed French newspaper, of the intended marriage, and of the alleged facts of notice and consent, and a lapse of a period of a fortnight from the insertion of the advertisement till the certificate of compliance was signed.

As a return for the security thus given to British women, their friends should be bound, in the case of an international marriage, to submit to the Registrar-General of England, Ireland, or Scotland, as the case might be, the evidence of the conditions of English, Irish, or Scotch law having been complied with, to allow the ceremony to be performed in the manner proposed in the application. The Registrar-General should then certify what signature was necessary to attest the fact of the ceremony having been performed in the manner proposed, and the attachment of such signature should be conclusive evidence of a valid marriage.

The certificate of an international marriage between a French and British subject would contain therefore: (1) The certificate of the nearest French consul that due notice had been given and the necessary consents of relations obtained, and the particulars had been duly advertised in the *Moniteur* of—— date, (or if the advertisement not prescribed by the treaty, then the particulars of the notice and consents should be set out), and that all other conditions of French law for the time being had been complied with, to entitle the French subject named to marry the British subject named; (2) The certificate of the Registrar-General of England, Ireland, or Scotland, as the case might be, that the conditions of the English, Irish, and Scotch laws of marriage have been complied with, to allow of a marriage at the place, in the manner, and at the time purposed and that the signature of—— would be sufficient evidence of the marriage having been duly performed; (3) The certificate of the clergyman or other persons named in the Registrar-General's certificate that the marriage had been duly performed.

Whilst there is no reason for encouraging these international marriages, it is, with the growing intercourse between two nations so near and so friendly as the British and the French, most unwise not to make provision for the increased complication consequent on the conditions of two systems of law having to be complied with.

I have taken up the case of marriages of British subjects with Frenchmen; but the principles I have ventured to suggest are of universal application. They rest on these simple principles of international law. In receiving foreigners freely amongst us, we ought not, unless they take out letters of naturalization, and become entirely British subjects, encourage them to violate the laws of their own country, or the duties which those laws impose on them towards the members of their own family; we should therefore require them to show that they have complied with the laws of their own country, before any British clergyman or officer marries them to a British subject. As foreign laws are liable to change, the simplest way of doing so is to obtain a certificate from the nearest consul or ambassador of the nation to which the foreigner belongs. If this document is to be a protection to a British woman and her children, it ought to be conclusive. What we ask we are bound to offer —some equally conclusive document as to the conditions of English, Irish, or Scotch law having been complied with; and these documents, from their international character, should be carefully registered both here and in the foreign country to which they relate.

Enforcement of liabilities consequent on International Marriages.

The adoption of strict conditions against international marriages being improperly celebrated would strengthen the power of enforcing the duties consequent on such marriages, and of punishing desertion or repudiation.

Some facts stated by Miss Leigh, in her letter to the *Times* of 12th August, indicate how defective our international law is on this subject at present.

Amongst the cases which the Association for Mission Homes for Deserted English Women and Children in Paris are helping, is the wife of

> "A French officer, who promises that the French civil marriage shall yet be performed."

This represents a class of cases where the present publication of the conditions of French law must lead to great unhappiness.

People who have been married lawfully in England, and have lived for years together, suddenly discover that the marriage is not valid according to French law.

All the people who should have given consent may be dead, or the husband may have reached that age when the refusal of consent can only cause a delay of the marriage for a month or two.

Now, why should there not be power in the ambassadors and consuls, or in our matrimonial courts, to validate such a marriage, so far as the husband was concerned, if he was willing, with such reservation of any rights of succession to property in other countries, which the validation might unfairly affect? Why expose the parties to the humiliation of going through a second ceremony? Take again the case

> "Of the beautiful girl who was married to a Communist at the age of seventeen, and where her husband, since he was amnestied and returned to Paris, has told her that she and her children have no legal claim on him."

Now should this man, to whom so much has been forgiven, be allowed to escape scot free, and be liable neither to alimony for his wife, or support for his children? Why, again, should he be allowed to escape the liability he would incur in England even for illegitimate children,* or the victim of seduction?† Why should the whole burden of this woman and her children be thrown on English ratepayers, and England's charity?

That the French law inflicts the most grievous hardships on deserted Englishwomen and children in Paris, would appear from another case of a young Frenchman who married at twenty-four, and, according to Miss Leigh, addressed a letter to his English wife to this effect:—

> "My father has law, justice, and police to help him, and will do what he speaks of doing. He has legal power to have you expelled from France by the police, and means to do it. It would not be the first time that a gentleman has had a foreign lady expelled from France to secure his minor son's obedience, and I am under age"—(that is twenty-four and under twenty-five, age of majority for men in France).

When the French law is so harsh on the woman as this case discloses, a strong case is made out for allowing no marriages to be celebrated in the United Kingdom with Frenchmen without securing beforehand, as suggested in this paper, that the conditions necessary to a valid marriage are fulfilled.

This case, however, raises another question in international law. Why should the age of majority for men be twenty-five in France, and twenty-one in England? Is this French law right?

The reports‡ of Her Majesty's representatives abroad, above referred to, showing the earliest age at which marriages can be legally solemnized, show a singular diversity on this point in other countries. Take the Swiss Cantons for instance. In St. Gall and Zug the age up to which the consent of relations in the direct line is necessary, is nineteen years; in Friburg and Thurgovie, twenty years; in Soleure, twenty-one years; in Neuchatel, twenty-two years; in Berne, Valais, and Vaud, twenty-three years; in Zurich, Underwalden, and Argovie, twenty-four years; in Shaffhausen, Tessin, and Geneva, twenty-five years. In Wurtemburg and Portugal the age is twenty years; in Hesse-Darmstadt the age is twenty-five years; in Hungary and Austria it is twenty-four years. In Bavaria there were in 1878 four different sets of laws ruling the age at which it was lawful for persons to marry, but the returns as to that country add:—"There is no doubt that the law on civil marriages, when introduced into the Reichstag, will contain uniform rules on the subject for the whole of the German Empire." Now it is plain from this how hopeless it would be to expect clergymen and registrars to be made up in all the various ages of minority throughout Europe, and to keep themselves made up to the changes from time to time made. It follows, therefore, that the only safe course is compulsory reference to latest and best information, which (as the Lord Chancellor of England points out) can only be got from consuls and ambassadors. The negotiations for International Law of Marriage Treaties, securing the action of the consuls and ambassadors, and empowering them to give certifi-

* See "Report on the Importance of making the Liability of Reputed Fathers of Illegitimate Children the same in Ireland as in England," by a Local Committee as to means of diminishing Vice and Crime in Dublin, read at Social Science Congress, in Dublin, 1881.

† See "Report on Seduction," by same Committee.

‡ Parliamentary Papers, 1876, c. 1096.

cates binding their own countrymen and their own courts, and the chief marriage state authority in each country power to give certificates binding the courts of the country where the marriage takes place, would lead to all these diversities being discussed; and through this discussion, and the action of the International Law Congress, a greater uniformity of prescribed ages of minority might be arrived at.

Summary of Conclusions.

I will briefly summarize the conclusions arrived at in this paper.

(1) The advice of the Lord-Chancellor's memorandum for British subjects, to seek the assistance of foreign consuls before marrying foreigners, with the Registrar-General's information that the signature of the consul has no effect towards rendering a marriage in this country valid in France, indicates the direction in which the solution of the difficulties of international marriages is to be found.

(2) In receiving foreigners freely amongst us, we ought, unless they take out letters of naturalization, and become entirely British subjects, not to encourage them to violate the laws of their own country, or the duties which these laws impose on them towards the members of their own families.

(3) We should therefore require them to show that they have complied with the laws of their own country before any British clergyman or officer marries them to a British subject.

(4) As foreign laws are liable to change, the simplest way of fulfilling the above requirement is to obtain the certificate of the nearest consul or ambassador of the nation to which the foreigner belongs, that the proper notices have been given, and consents of parents or others obtained, and advertisements issued.

(5) If this certificate is to be a protection to a British woman and her children it ought to be conclusive.

(6) What we ask we are bound to offer—some equally conclusive document as to the conditions of English, Irish, and Scotch law having been complied with.

(7) These conclusive certificates being of international importance, the state should secure their registration in London, Dublin, or Edinburgh, at the foreign embassy in London, and at the capital of the state to which the foreigner belongs.

(8) The ambassadors and consuls or matrimonial courts should have power to validate marriages without a second ceremony, on such terms as the succession of property by other members of the family, as under the circumstances might be just.

(9) A foreigner marrying in the United Kingdom, if he deserted his wife, should be liable to alimony, and to support his children; and it should be part of the international marriage treaty that the foreign state should either give him up, as under an extradition treaty, or apply special state facilities for enforcing this claim, to save the burden of the deserted wife and children falling on British rates or British charity.

(10) A foreigner successfully repudiating a marriage in the United Kingdom, and returning to his own country, should still be liable to the same extent as he would be liable in the United Kingdom for the support* of illegitimate children and for seduction;* and it should be a provision of all International Marriage Law Treaty that he should be either given up or special state facilities afforded for enforcing the claim.

(11) The diversity of age at which the marriage of Swiss (the foreigners who are most employed abroad) can legally take place—being

* See Reports referred to in note on opposite page.

in different cantons nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, and twenty-five, and being all subject to variation—shows how impossible it would be to expect clergymen or registrars in the United Kingdom to be adequately informed on the subject, and that the most effectual way to protect British women and children is to require resort to the consuls and ambassadors, and to make their certificates conclusive as to the validity of the marriage.

At the conclusion of the paper, a resolution was moved in the section of Municipal and International Law, by Mr. Griffith, seconded by Dr. Hancock, and carried unanimously :—

"That the Council be requested to take into their consideration the complication of the British and French marriage law, and the frequency of invalid marriages contracted thereunder, and the inconvenience resulting therefrom, and to take such steps in reference to the subject as they may deem desirable."

VII.—*The Depositors in the Tipperary Bank, and the Cost of Proving Wills and distributing small Assets in Ireland.* By W. Neilson Hancock, LL.D. Q.C.

The case of the 647 *depositors in Tipperary Bank entitled to less than* £5 *each on an average.*

On the 16th of February, 1856, occurred one of the most serious calamities in Irish affairs in the past half century—the failure of the Tipperary Bank, consequent on the frauds of John Sadlier. In the *Annals of our Time* the deficit of the Bank is stated at £400,000, and the assets were stated would be little more than £30,000. Much sympathy was felt with the sufferers, as it was known that some part of the £400,000 was due to Tipperary farmers and labourers, who had been depositors in the Bank ; and considering that the amount of deposits in all the Joint Stock Banks was at that time only £12,000,000, a loss of £400,000, with only £30,000 assets, in four counties, was a very heavy calamity.

The story had, however, apparently passed into history, to be used to point a moral or adorn a tale, as Mr. Smiles has so ably used it in his interesting work on *Duty*—when a quarter of a century after the failure of the Bank, renewed interest in the story was revived by a remarkable advertisement from the official liquidator, filling two columns of our daily papers, and issued on the 12th of August, in 1881—addressed to 647 creditors of unclaimed dividends of the Tipperary Bank, whose names were all published. The notice recites:

> "Whereas dividends have been *from time to time* declared on the claims of the several persons interested in the Tipperary Joint Stock Bank, whose names (647 in number) are set forth in schedule hereto, and such persons have not hitherto made application therefor, nor have said dividends been paid, now notice is hereby given to such persons, or *their legal representatives*, that on application to the official manager, accompanied, where necessary, with proper evidence of identity, the dividends will be paid."

Then follows a notice that in default of application before 11th January, 1882, the dividends will be paid into the Chancery Division of the High Court of Justice, not be got at afterwards "except on application at